

**IN THE COURT OF COMMON PLEAS FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA**

MELINDA WILLIAMS, as Administrator of the Estate of BRIAN P. WILLIAMS, Plaintiff	:	No: 3:CV-13-1151
v.	:	CIVIL ACTION - LAW
MARK PAPI, ROBERT ROBERTS, STANLEY ELY, PAUL MILLER, TERRANCE FISHER, SLADE PROFKA JOHN KREIG, ROGER HARDY, WILLIAM OLSZEWSKI, TUNKHANNOCK TOWNSHIP, OVERFIELD TOWNSHIP, TUNKHANNOCK BOROUGH, MESHOPPEN BOROUGH, Defendants	:	JURY TRIAL DEMANDED

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Defendants by and through their attorneys, Schemery Zicolello, move for summary judgment on the claims and causes of action asserted against them in Plaintiff's Amended Complaint pursuant to Federal Rule of Civil Procedure 56 and aver the following in support:

1. On October 9, 2014, Plaintiff filed an Amended Complaint against Defendants, raising the following claims: Count I– Unreasonable force under the Fourth Amendment in entering the home against Mark Papi, Chief Ely, Paul Miller, Slade Profka, Chief Kreig, Roger Hardy, and Chief Olszewski under Section 1983; Count II– Unreasonable force for the use of deadly force against Mark Papi under Section 1983; Count III– Assault against Mark Papi under state law; Count IV– Battery against Mark

Papi under state law; Count V Monell claims against Overfield Township, Tunkhannock Township, Meshoppen Borough, and Tunkhannock Borough under Section 1983; Count VI— claims for failure to supervise against Chief Fisher, Paul Miller, Chief Ely, Chief Kreig, and Chief Olszewski; Count VII (mislabeled Count VI)— claims under the Rehabilitation Act and Americans with Disabilities Act against Overfield Township, Tunkhannock Township, Meshoppen Borough, and Tunkhannock Borough.

2. Based upon the evidence developed in discovery and attached to the Concise Statement of Facts in support of this Motion for Summary Judgment and Plaintiff's lack of evidence supporting essential elements of claims against Defendants, Defendants are entitled to the entry of judgment in their favor and against Plaintiff.

3. Defendants are separately filing a Concise Statement of Material Facts in support of the Motion for Summary Judgment, which details the uncontested material facts which entitle Defendants to judgment as a matter of law and which include an Appendix of Exhibits which contains the evidence in support of the Statement of Facts and this Motion for Summary Judgment.

4. Defendants are separately filing a Brief in Support of the Motion for Summary Judgment, which specifies the reasons that judgment should be entered in the favor of each and every Defendant and against Plaintiff on each count of the Amended Complaint.

WHEREFORE, in accord with the evidence of record, the statement of facts, this Motion for Summary Judgment, and the Brief in Support of the Motion for Summary

Judgment, Defendants respectfully request that this Honorable Court grant summary judgment and enter judgment in their favor and against Plaintiff on all counts of the Amended Complaint.

SCHEMERY ZICOLELLO

By: /s/Michael J. Zicolello
Michael J. Zicolello
I.D. #65522
Attorney for Defendants

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TERRANCE FISHER, SLADE PROFKA	:	
JOHN KREIG, ROGER HARDY,	:	
WILLIAM OLSZEWSKI,	:	
TUNKHANNOCK TOWNSHIP,	:	
OVERFIELD TOWNSHIP,	:	JURY TRIAL DEMANDED
TUNKHANNOCK BOROUGH,	:	
MESHOPPEN BOROUGH,	:	
Defendant	:	

CERTIFICATE OF SERVICE

Michael J. Zicolello certifies that a copy of the foregoing Motion for Summary Judgment has been served upon the following individual and in the manner indicated below on this 30th day of November, 2015:

VIA ELECTRONIC FILING

Shelley L. Centini, Esquire
The Dyller Law Firm
88 North Franklin Street
Wilkes-Barre, PA 18701

SCHEMERY ZICOLELLO

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